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STATE OF MARYLAND
PUBLIC INFORMATION ACT COMPLIANCE BOARD

PIACB 25-10

October 11, 2024

Office of the State's Attorney for Baltimore City, Custodian
Eric Rodriguez, Complainant

The complainant, Eric Rodriguez, alleges that the Office of the State's Attorney for Baltimore City ("BCSAO") has wrongfully denied his Public Information Act ("PIA") request. As explained below, we find no violation of the PIA.

Background

On April 19, 2024, the complainant sent a PIA request by email to the BCSAO asking for "[a]ll emails, phone records, and correspondences your agency has with Arnold Jay Abraham or any attorney from The Cyberlaw Group." It does not appear that the BCSAO responded. On July 9, 2024, the complainant contacted the Public Access Ombudsman.¹ On August 7, 2024, the Ombudsman issued a statement in which she indicated that she was unable to mediate the matter due to a conflict.² The statement indicated that the PIA dispute presented was a failure to respond. Thus, that dispute was not resolved through the Ombudsman and the complainant filed this complaint with our Board.

The complaint alleges that the BCSAO has "wrongfully denied access to public records . . . despite the fact that there is no legal justification for the denial." In response to the complaint, the BCSAO first explains that "Arnold J. Abraham, an attorney affiliated with the Cyberlaw Group, represented Louis Leibowitz in criminal cases initiated by James Alford." The BCSAO states that, before it received the complainant's PIA request, it had filed a complaint with our Board alleging that "PIA requests received about matters

¹ See Md. Code Ann., Gen. Provisions § 4-1B-04(a) (charging the Ombudsman with making "reasonable attempts resolve disputes between applicants and custodians relating to requests for public records under [the PIA]"). Before filing a complaint with our Board, an applicant or custodian must attempt to resolve the dispute through the Ombudsman and receive a final determination stating that the dispute was not resolved. *Id.* § 4-1A-05(a).

² See COMAR 14.37.02.07C(3) (providing that, "[i]f the Ombudsman is unable to proceed in a neutral, impartial, and independent manner," then the Ombudsman must withdraw from the mediation and issue a final determination "stating that the dispute was not resolved through the Ombudsman due to conflict").

involving Mr. Alford, Mr. Leibowitz, and related matters, including Mr. Abraham, were frivolous, vexatious, and submitted in bad faith.” Noting that our Board granted relief and determined that the BCSAO did not need to respond to the requests identified in its complaint or any subsequent or future similar requests, the BCSAO contends that “this request is one contemplated by PIACB 24-29.” Thus, the BCSAO asks that we find that it “acted appropriately when it did not respond to the complainant’s request.”

In reply, the complainant states that “it is clear that the BCSAO violated the PIA by constructively denying [his] request and failing to abide by the provisions which outline how a custodian must respond to a request and conduct a search.” The complainant asserts that we are “required to find that the BCSAO has violated the act and order that the BCSAO produce all responsive records immediately and free of charge.”

Analysis

The PIA directs us to review and resolve complaints alleging certain violations of its provisions, including that a custodian failed to respond to a PIA request within certain time limitations. § 4-1A-04(a)(1)(iii).³ We are also empowered to review and resolve complaints by custodians that “an applicant’s request or pattern of requests is frivolous, vexatious, or in bad faith.” § 4-1A-04(b). In December of last year, the BCSAO submitted a complaint alleging that more than sixty PIA requests it had received by email from an individual named James Alford and numerous other email accounts were frivolous, vexatious, and in bad faith. *See* PIACB 24-29 (Mar. 29, 2024). After careful consideration of an extensive administrative record, we found that those requests were vexatious and in bad faith, and ordered that the BCSAO “need not respond to any of the Alford-related requests identified in its complaint, nor need it respond to any subsequent or future requests for records related to James Alford, Louis Leibowitz, and the matters between them heard in the District Court of Maryland for Baltimore City from early 2022 through the end of 2023.” *Id.* at 25.

Though perhaps not immediately apparent on its face, this PIA request falls within the scope of our order in PIACB 24-29. As the BCSAO points out, Mr. Abraham represented Mr. Leibowitz for purposes of at least some of the Alford-related matters in the district court. Notably, Mr. Abraham was referenced in at least two PIA requests identified in the BCSAO’s vexatious request complaint. *See* PIACB 24-29, at 6 n.7, 7 (Mar. 29, 2024). Any doubts about the connection to PIACB 24-29 are resolved by the complainant’s reply here, which repeats many of the same unsubstantiated accusations made by the requesters there. *See, e.g., id.* at 16-18 (detailing accusations related to

³ Statutory citations are to the General Provisions Article of Maryland’s Annotated Code unless otherwise stated.

allegedly counterfeit subpoenas). Thus, the BCSAO was legally justified in declining to respond to this PIA request.⁴ *See* § 4-1A-04(b)(3)(i); COMAR 14.02.07.04D(2).

Conclusion

Based on the information before us, we find no violation of the PIA.

Public Information Act Compliance Board*

Sareesh Rawat, Chair
Samuel G. Encarnacion
Debra Lynn Gardner
Nivek M. Johnson

* Board member Quinton M. Herbert did not participate in the deliberation, preparation, or issuing of this decision.

⁴ We note that the Circuit Court for Baltimore City recently affirmed our decision in PIACB 24-29. *See In the Matter of William Hernandez*, No. C-24-CV-24-000368, Final Order (Cir. Ct. Balt. City Sept. 6, 2024). Mr. Hernandez has appealed the Circuit Court's ruling to the Appellate Court of Maryland. Given the presumption of validity afforded the Circuit Court's affirmance, the BCSAO will not be required to respond to this PIA request unless the Circuit Court's decision is reversed upon appeal.